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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,036	12/11/2003	Michimasa Kumagai	2562/71674/JPW/KBC	8744
7590 10/03/2006 Cooper & Dunham LLP. 1185 Avenue of the Americas New York, NY 10036			EXAMINER WEIER, ANTHONY J	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,036

Applicant(s)

KUMAGAI, MICHIMASA

Examiner

Anthony Weier

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 3, 6, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 6 are indefinite in that it is not clear as to the nexus between the netting/hole-punched plate and the tray-shaped container. Is this on the bottom of the container or above? Is the gap an open gap between the upper edge of the tray and the netting/hole-punched plate?

Claim 3 is indefinite in that it is not clear what this gap entails? Is the bean paste solid enough to support a bridge over a large gap? Are there many gaps where the inner surface of the container has various indents or projections?

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 57-43230 and the J. Huaihai Inst. of Tech. Article.

JP 57-43230 discloses a process wherein bean paste having a water mixed therein (67% moisture content) is chilled (inherently within containing means) and freeze drying. The claims differ in calling for freeze drying in an air permeable container. However, it is well known to freeze dry articles in air permeable containers to facilitate acceleration of drying as taught, for example, in the J. Huaihai Inst. of Tech. Article. It would have been obvious to one having ordinary skill in the art at the time of the invention to have incorporated such container for such advantage in freeze-drying.

5. Claims 4, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 57-43230 and the J. Huaihai Inst. of Tech. Article further in view of CN 119909.

The claims call for a plurality of impressions made in the chilled paste and which provides an irregular surface. However, CN 119909 teaches same, and it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed same to increase the surface area available for moisture sublimation and to shorten processing time during freeze-drying (see Abstract).

6. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 57-43230 and the J. Huaihai Inst. of Tech. Article and further in view of Fuentevilla.

The claims further call for said tray to have gaps between the paste and container. Fuentevilla teaches the use of a tray to be used in freeze-drying (e.g. Figure 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed same to provide quicker drying.

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7. Claims 2, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the JP 57-43230 and the J. Huaihai Inst. of Tech. Article and further in view of Dagleish et al.

The claims further call for freeze drying wherein the tray used therein contains a wire mesh which provides a gap between the past and the tray. Dagleish et al teaches a tray used for freeze-drying food wherein same is equipped with a wire mesh which provides a gap as called for in the instant claims (see Figure 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have incorporated same to further accelerate the freeze drying process (e.g. col. 3, lines 60-75).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

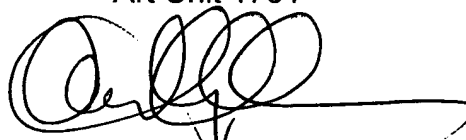
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier
Primary Examiner
Art Unit 1761

Anthony Weier
September 27, 2006


9/27/06